VIRTUAL ROUND TABLE SERIES | INSOLVENCY WORKING GROUP 2021

Day of Reckoning: Insolvencies in a post pandemic world

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FOREWORD BY EDITOR, ANDREW CHILVERS

Insolvencies: The next pandemic?

When the UK government recently paid Cardiff Airport's £42.6 million debt and then provided £42.6 million in grants, it was following the same path adopted by governments around the world to try to bring long-term stability to businesses during the pandemic.

Emergency measures like these were designed to protect companies during the pandemic and into the post Covid-19 era.

Such emergency loans – given to countless businesses large and small across the UK – also coincided with announcements by Chancellor Rishi Sunak that the British government was extending its £68 billion coronavirus emergency loan while the employment furlough scheme finally ended in July 2021.

Along with this aid he also included an extension of the £19.6 billion Coronavirus Business Interruption Loan Scheme and the £5 billion Coronavirus Large Business Interruption Loan Scheme.

However, while many global business people see rescue packages as laudable, restructuring and insolvency professionals warn it's a solution that either pushes the problem into the future or – worse – creates zombie companies out of bad and good businesses alike.

In the UK, total company insolvencies for the first quarter of 2021 dropped by 22% compared to the final quarter of 2020 and were down a huge 38% compared to the same quarter in 2020.

Across Europe, North America and Asia it was a similar story throughout the pandemic. The number of insolvencies consistently dropped as a result of various government aid initiatives. In most normal economic cycles, there is often a lag between a financial crash and insolvencies, but the current lag has defied most predictions by insolvency professionals. Initially, they predicted a spike in late 2020, then early in 2021, now they're saying the increase will be at the start of 2022.

So, the question: when is the wave of insolvencies going to happen – given that governments continue to bail out businesses – and what will be the extent of that wave?

The first casualties, according to insolvency professionals, will be those distressed companies that were insolvent pre-pandemic, but which were shielded from insolvency by the funding measures of various governments. These businesses are famously called "zombie companies".

They are firms which have taken on a mountain of debt to fund losses, while relying on creditor forbearance to help them make ends meet. Unfortunately, that debt will need to be repaid and creditors will acquiesce no longer – and this list includes tax authorities, landlords and banks, among others.

This increase in zombie companies will comprise an estimated fifth of UK firms (21%), according to Onward, a UK-based research company. These firms generate just enough revenue to pay the interest on their debts – but not the debts themselves. They have existed primarily on the UK government's £75 billion worth handouts and their survival has probably also contributed to the survival of their trading partners. For insolvency professionals across the globe, huge numbers of these zombie companies will start to fold not long after state aid has been withdrawn. And their demise could also mean the demise of other, more healthy but vulnerable businesses.

Across the EU, insolvency professionals are bracing themselves. According to the European Systemic Risk Board, which monitors the EU financial system, with the winding down of the EU-wide €1.5 trillion of public support measures, zombie businesses and their healthier counterparts could become insolvent overnight and trigger a recession, causing further insolvencies. The ESRB said the current low rate of insolvencies could be similar to the sea retreating just before the tsunami hits the beaches.

The ESRB has recommended EU governments take actions to mitigate the risk of a wave of corporate insolvencies, saying policy interventions should avoid supporting 'zombie firms' that could significantly slow down the post-Covid recovery.

Echoing sentiments made by insolvency professionals everywhere, the ESRB said governments should focus on helping only the healthy, viable companies once restrictions are lifted, ensuring distressed firms are quickly wound down.

What appears to be key for the future health of businesses and economies across the world is the role played by restructuring and insolvency professionals. Their help will be critical for business owners who want to throw off the zombie tag by breathing new life into their companies through restructuring. Likewise, they'll be relied on to ensure assets of insolvent companies are recovered for creditors to reinvest in new businesses.

In this virtual series, IR Global members discuss the state aid in their jurisdictions that has helped to keep both healthy and distressed businesses afloat. They also predict where the world – and particularly their corner of it – will be headed in the next few months and years.

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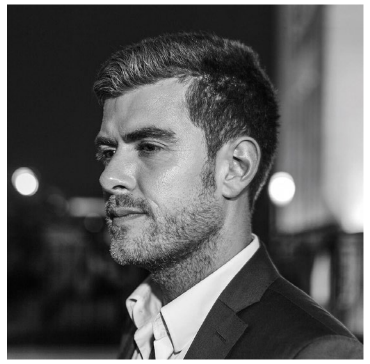
View from IR



ENGLAND

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Our Virtual Series publications bring together a number of the network's members to discuss a different practice area-related topic. The participants share their expertise and offer a unique perspective from the jurisdiction they operate in.

This initiative highlights the emphasis we place on collaboration within the IR Global community and the need for effective knowledge sharing.

Each discussion features just one representative per jurisdiction, with the subject matter chosen by the steering committee of the relevant working group. The goal is to provide insight into challenges and opportunities identified by specialist practitioners.

We firmly believe the power of a global network comes from sharing ideas and expertise, enabling our members to better serve their clients' international needs.

Featured Members

MEXICO

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Born in Guadalajara, Jalisco, Francisco received a Law Degree from the Universidad Panamericana Campus Guadalajara.

He has represented clients in matters of civil, commercial, and Amparo litigation, litigating before Federal and Local Courts since 2005. His practice has specialized in contentious matters of Bankruptcy, Commercial Arbitration, Antitrust, torts, and real estate.

Francisco is the author of "The reorganization plan under the Bankruptcy Law", "Bankruptcy Law in Mexico" and "CROSS-BORDER INSOLVENCY: Recognition of foreign proceeding under the Mexican Bankruptcy Law".

ENGLAND

David Foster

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David is the chairman of the Dispute Resolution Division in Moore Barlow, a leading UK firm with 280 lawyers and offices in the City of London and across the South of England.

David's areas of practice include insolvency, professional negligence, and commercial litigation. In relation to insolvency, David is experienced in exploring different ways to address financial difficulties with clients, including through informal negotiation with creditors or by assessing the risks/ benefits of a more formal insolvency process, such as individual voluntary arrangements, company voluntary arrangements and bankruptcy and/or company wind up.

David regularly handles cases in the higher courts. David's clients include companies of all sizes, banks, insurers and educational institutions. He has handled over 300 mediations across the UK with a success rate of over 90%. He has wide mediation experience, even lecturing on mediation in Kenya.

David is actively involved in a number of charities and organisations including as trustee.

FRANCE

Richard Jadot

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Richard Jadot has more than 35 years of experience in domestic and international financing, including financing of acquisitions, assets and projects (aircraft, trains and renewable energies), real estate and factoring. He is the advisor to banks, financial institutions and French and foreign companies for the drafting and negotiation of credit contracts and related collateral.

He is also involved in regulatory matters and in debt restructuring in the context of collective proceedings and / or corporate financial difficulties.

SPAIN

José María Dutilh

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José is the Managing Partner of LeQuid Abogados y Administradores Concursales S.L.P. and Partner Responsible for the department of Bankruptcy Administration of I-Ley Jurídico y Financiero S.L.

He is the Bankruptcy, Corporate tax and Commercial lawyer specialising in business management and administration. José is a graduate in Law and Licensed in Business Sciences (ICADE – E1), University Master in Company Insolvency (CEU), Master in General Business Management (ESDEN), Master in Business Legal Consultancy (IE-Instituto de Empresa), Master Business Tax Consultancy (IE). He's a specialist in integral consultancy for Social Economy Companies, Social Enterprises and investment funds with social impact.

He has professional experience in the following sectors: Audiovisual, Software, Development and Construction, Digital Business, Pharmaceutical Laboratories, Telecommunications, Maritime, Transport, Retail Commerce.

MALAYSIA

Dato' Raveendra Kumar Nathan

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Dato' Kumar Nathan has over 30 years of international experience in various business operations including finance, investor relations and general management.

He qualified as a Chartered Certified Accountant in 1985 and worked for various Public Accounting firms in the United Kingdom and in 1988 joined Price Waterhouse, Singapore as Audit Senior. In 1989, he was recruited by Carrier International Corporation (subsidiary of United Technologies Corporation, a US Fortune 100 company), in their Asia Pacific Regional Headquarters in Singapore. In 1993, he was attached to Carrier's subsidiary in India, which is a public listed company, as the Chief Financial Officer and thereafter as Chief Financial Officer of Carrier's Singapore operation, General Manager of Brunei and Malaysian operation and finally as Director, Aftermarket at the Asia Pacific Operation in Singapore.

In 2004, Dato' Kumar left Carrier and founded Rimbun. At Rimbun, his specialty includes Corporate Turnaround and Rehabilitating Abandon Residential and Commercial Projects. He also acts as a Consultant to the National Housing Department in their rehabilitation endeavors and is also the elected council member for the Insolvency Practitioners Association of Malaysia.

HONG KONG

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Having previously spent 20+ years working between Hong Kong, the Cayman Islands, the British Virgin Islands and the UK, Gwynn Hopkins founded Perun Consultants in 2017.

Gwynn has worked as an insolvency practitioner and forensic accountant on a wide range of local and cross-border engagements and has a proven track record in the liquidation and restructuring of international financial services companies, particularly those involving complex litigation or with contentious matters to resolve. Having led teams for many years as a partner in the Caribbean and Hong Kong, Gwynn has a thorough understanding of both the onshore and offshore aspects of appointments.

In addition, Gwynn has extensive experience in forensic accounting assignments including asset-tracing and recovery engagements; due diligence investigations; and the preparation of loss of profits and asset valuation reports. Gwynn also takes roles such as acting as a consultant or an appointed independent director or trustee to assist distressed entities.

SESSION ONE

What are the levels of company insolvencies predicted in your jurisdiction? Which sectors have been most badly hit by the pandemic?

David Foster – England: We've seen a record number of UK-listed companies issuing profit warnings, while the number of company insolvencies has been down. Some 72% of FTSE retailers have now issued profit warnings in the past 12 months. A lot of companies are breaking records on that front and we're seeing a lot of businesses just keeping their heads above water.

There have certainly been a number of sectors that have been particularly badly hit. These include automotive, retail and hospitality. It seems to affect the type of business rather than the size of the business. Elsewhere, you see pockets that do seem to do OK. For example, what's called athleisure. This has done well in the retail sector; a little pocket of success in fashion. But a lot of what's happening in terms of the sectors is just about people really having strategies to survive, particularly in the new online environment, and keeping a fairly established presence there.

The other areas that have done well have been defence, music publishing, dispensing chemists and furniture retailers have bounced back. Although the hospitality sector has done badly, camping has done well. So, it's overall pretty patchy really and in the future much will depend on how far businesses can be clear about what their purpose is and look at areas like sustainability and whether or not what they do fits in with some of the wider trends in business.

Francisco Rodríguez-Nepote – Mexico: Mexico is a unique case because despite being one of the biggest economies in the world, we have very few numbers of bankruptcies. Since 2000 to 2021 an average of 40 cases have been filed per year and Covid-19 hit around one million businesses, with SMEs closing indefinitely. And yet only 42 bankruptcies were filed between 2020-21, so the pandemic did not produce a tsunami of bankruptcies.

Restaurants, cinemas, gymnasiums, airlines and coworking offices were hit badly. However, only one airline, Interjet, was planning to file for bankruptcy in Mexico and the other one, Aeromexico, went bankrupt in the US. Right now, there is not much confidence with our judicial system in terms of filing for bankruptcy and it is surprising that notwithstanding the biggest economic crisis in 80 years, the numbers are actually lower.

Richard Jadot – France: The massive aid injected by the state in the economy, resulting from the "whatever it costs" rule, has significantly reduced the level of pre insolvency and insolvency proceedings in France in 2020, and the trend has continued during the first half of 2021. This state aid has consisted mainly in the so-called state guaranteed loans of up to euro13 billion, the deferral of taxes and social security charges up to euro27 billion, a solidarity fund for euro13 billion and partial activity indemnification for euro23 billion (source Deloitte).

There have also been regulatory measures such as the freezing of insolvency data tests in March 2020. All this has generated a dramatic reduction of insolvency proceedings in France, resulting in the lowest historical level of insolvency proceedings; a decline of 38% compared with 2019. For the record, it is interesting to note that the 2008 financial crisis generated an increase of 20% in insolvency proceedings, an illustration that state aid has made a significant difference compared to 2008.

All sectors were impacted: construction 23%, commerce 22%, services 14% and restaurants, hotels, bars, 13%. Overall, the impact was more on large companies above 500 employees with a turnover exceeding euro15 million, so the protection of the state as been more for small and medium size companies to date.

Gwynn Hopkins – Hong Kong: We're seeing similar themes emerging over here. The main industries that were clobbered were retail, hospitality, food and beverage, airlines and hotels. However, the hotels that managed to become quarantine hotels did well – it's essentially a new business model for some hotels in this new pandemic world.

With retail, for example, in Hong Kong the luxury end has suffered. Much of it depended on tourism from mainland China and from other parts of the world. These shops and large malls no longer have the footfall and business has dropped off a cliff. That's forced a number of closures and other difficulties. To stave of bankruptcies in this area and elsewhere, there has been a lot of government support.

If you look at the first four months of 2020 in Hong Kong, the actual court windings up were about 25; the first four months of this year it's 96. You can see it that even though there have been lots of steps taken to mitigate the impact, there is a marked difference between the pre and post Covid-19 era.

Connie Lau – Hong Kong: At the moment we're seeing the actual number of companies winding up is getting relatively stable, probably because of corporate support and also the Hong Kong monetary authority is asking banks to support corporates in Hong Kong.

We're also seeing a lot of listed companies increasing their profit warnings along with delays in announcements. Consequently, I think a lot of listed companies are struggling and there's an increase in the number of businesses that have suspended trading, which will have a big impact from the credit perspective.

Dato' Raveendra Kumar Nathan – Malaysia: Malaysia has been going through different waves of Covid-19 and we're now on the fourth wave. Generally, we did not see many insolvencies last year and the reason was because of the huge amount of government assistance; current policy measures have made it difficult for winding up businesses. Sectors that have had the biggest problems include airline and hospitality; hotels, restaurants, pubs, movie theatres.


David Foster pictured at the IR Global Annual Conference in London, 2018

The retail industry is also having a tough time because online purchases have adversely affected shopping malls, retail outlets. Elsewhere, the construction industry has taken a hit because Malaysia is largely dependent on a foreign labour force for building and many of them have been barred from entering the country. That has affected the supply side, while on the demand side there's been a big mismatch in terms of high-end condos, commercial condos, residential condos. To compound this issue of overcapacity in the retail segment, there are new shopping malls currently under construction that will commence operation in the near future.

On the commercial side we're getting office blocks opening and that's going to be a problem; like Mexico, at the moment we have a huge number of small and medium enterprises with severe cash flow issues. The industries that seem to be doing better include electrical and the electronic industries, glove manufacturers and the oil and gas industry.

As with other members, our hotels have got a new business model, converting to quarantine centres – and those that have gone down that route are doing well. As with Hong Kong we're seeing a lot of profit warnings and also a worrying rise in the manipulation of financial data to retain share prices.

José Maria Dutilh – Spain: We are seeing a considerable increase in the number of business insolvencies in Spain. This is expected to grow by 49% during 2021 as soon as the aid approved to curb the pandemic's impact on the economy comes to an end, and which has managed to stave off this increase in the meantime.

The slow recovery of GDP in some countries such as Spain, the UK and Austria, compared to the contraction sustained during the pandemic, will increase pressure on business insolvencies.

Tourism and hospitality, textiles, clothing and footwear, automotive and components, petroleum, and the leisure and cultural activities sectors have suffered most from the effects of the Covid-19 pandemic and are expected to take three years to recover.

This is shown in an analysis carried out by the DBK sectoral observatory of Informa D&B, a subsidiary of CESCE, regarding the coronavirus' impact on the Spanish economy. This analyses more than 600 activities included in the National Classification of Economic Activities (CNAE), grouped into 36 sectors.

SESSION TWO

What are governments doing to lessen the impact of the pandemic regarding distressed companies? Are these government measures simply delaying the inevitable?

DF – England: What are the government doing? Lots of things. We've had three lockdowns so far; we've got the furlough scheme; the government has been paying sick pay where people have coronavirus; there's been coronavirus grants of various kinds, and bounce back loans where SMEs can borrow up to 25% of their turnover up to certain caps.

There are also Covid-19 corporate financing facilities. That's an interesting one because with this the government supports large businesses by buying unsecured short-term corporate debt, known as commercial paper and effectively provides short-term loans so companies have easy access to cash.

But there are certain restrictions for those companies. They can't pay dividends to shareholders or buy back shares or increase senior pay. But the Bank of England is effectively acting as the Treasury's agents and printing to help that happen.

Then there are business interruption loans for small businesses under £44 million and larger schemes for companies over £44 million, with government guaranteeing 80% of loans. Elsewhere, there are the business eviction bans.

So, all in all, the government is doing a lot to help businesses. But is it delaying the inevitable? Yes, we're going to see companies that would have gone bust, or going bust a bit later.

That's certainly going to happen. The withdrawal of government support is going to be challenging for businesses that are weak. And that weakness in part would have been caused by the pandemic. Then there are other companies that are going to be in difficulty because they've just been slow to adapt to changes in the market. But what has happened is that because of government support, the economy is getting stronger. We've got a stronger than expected economic outlook. Confidence is better.

I think the biggest danger is not even so much the pandemic now. It's much more about have people got the courage to reposition their businesses and then do better because of that – and avoid insolvency through their own direct action?

FR – Mexico: The Mexican president stated clearly that he is unwilling to bail out any company or give moratoriums to pay taxes or social security contributions. He said that if a company fails, it's up to the owner, because of the pandemic there is more need than ever to ensure taxes are paid and collected. For businesses and their owners, therefore, there's no moratorium on taxes or social security contributions. But the National Bank and Stock Commission have modified certain restrictions to allow Mexican banks to delay some forbearance as to the borrowers.

And that has been the key. Many borrowers took advantage of this opportunity, which may explain why there has not been an elevated number of bankruptcies. However, we will need to wait and see when that forbearances or delays ends. And aside from that, there has been no other Mexican government measures to attend this pandemic crisis.

So, there's been very little government interference here at all or no interference at all, despite being a leftist president. It's very odd for a left wing politician – he hasn't interfered whatsoever in the economy.

Is the business community happy about this? The short answer is 'no'. They feel they have been left outside, unprotected. The president has rolled out microloans to the workers, but not to the source of the work, not to the job creators. I think that could well hurt him when the voters go to the polls.

RJ – France: The French government is very present and has always been, but this time for a good reason. The symptoms and the position seem fairly similar to the UK. Clearly the massive state aid injections have enabled the economy to survive. However, the French government is passing messages that the "whatever it costs" principle will progressively decrease.

During summer, the government will be preparing measures that would consist of inducing companies to restore their activities rather than continuing to rely on aid. A number of companies had the benefit of "easy money"; some for good reasons and others for less good reasons. Consequently, the government is progressively instilling the idea that at some stage it is going to stop and they will have to face the consequences.

It is hoped that the Government will not brutally terminate its support, which would result in annihilating the positive effects of the management of the crisis. Delays of repayment of State guaranteed loans and claims of "big creditors" (taxes, social security charges etc.) will be key. As far as businesses that have relied on state guaranteed loans as a survival mean – although they were not meant to survive – one can anticipate that there will be an increase in insolvencies among these.

Generally, it is reasonable to anticipate that the level of pre-insolvency and insolvency proceedings will increase some time at the end of 2021 and in 2022.

The capacity for companies to adapt their activities in an environment which has radically changed in a number of sectors is an important, if not crucial, factor. This is obviously the same for companies in the UK and globally in a similar situation.

The optimistic way of seeing things is to anticipate a strong rebound of the economy locally and globally, new businesses thriving and very active finance and mergers and acquisitions markets.

In France one should also not neglect the context of the presidential elections in 2022, and possible social troubles, making it even more likely that the Government will continue to support the economy strongly.

DF – England: Yes, what's interesting is when will the different bits of state aid be turned off and at what time. Therefore, we're not quite sure when the real effect is going to happen; we have to wait and see. The turning off of different levels of state aid will also coincide with how businesses change their ideas as a result of Covid-19 – for example what office space they'll need, so everything is really up in the air.

GH – Hong Kong: It's been an interesting approach from the Hong Kong government. We had Covid-19 earlier than in the Western economies so the government reacted earlier and went through a few additional phases. It started off with providing direct support for businesses. For example, in Hong Kong there was a scheme where the government provided funding for about 50% of the wages for six months. The understanding would then be that if a business received that support, staff would not be dismissed. This rapidly evolved into the prodding of the banks to inject additional liquidity.

Easing reserve requirements for the banks made it easier for them to advance loans to businesses, extending government guarantees for small business loans etc. But even those loans are not done by the government but by the banks. For example, you ask for a loan and it's approved and the right conditions are met, that loan will be guaranteed by the government, but it's still your obligation to repay the loan – the guarantee is there to protect the bank. It's more of that type of support in Hong Kong, along with some targeted relief to specific sectors again, just to try to protect various industries in Hong Kong. In the UK and France, government intervention has been really noticeable. But here it's done more via the mechanism of the established financial sector.

CL – Hong Kong: Is the government simply delaying the inevitable? Even after Covid 19 and even if the economy rebounds, I think generally business models in some sectors will have to change. There will be a lot of M&As and consolidation in the retail industry, for example. Online purchases will be the growing trend. Business travel will be significantly affected by the use of technologies such as Zoom for meetings. As a result of these changes more businesses will decide the rents in prime centre business district areas are too high. The main shopping district in Causeway Bay, for example, already has a lot of vacant lots as a result of decreasing tourists from overseas and from the mainland.

DK – Malaysia: The Malaysian government has put in some measures to mitigate the number of insolvencies; for instance they've passed the Temporary Relief Act, which increases the threshold for winding up from $2,500 to $12,500. Now you need to have a debt of at least $12,500 before you can wind up by providing statutory notice, which was initially 21 days but has been extended to six months. But the statutory notice period reverted to 21 days because they found that the minister did not have the authority of parliament to extend those periods.

Then the government also enacted a *force majeure* clause, where no actions can be taken for non fulfilment of contracts where time is of the essence. There was also a loan repayment moratorium in place for about six months. The government injected just under $14 billion in 2020 and about $9 billion to date to stimulate the economy through loan assistance to small and medium businesses, direct cash handouts, tax relief, wage subsidy and so forth.

Recently the government introduced a corporate rescue mechanism. We have corporate voluntary administration, judicial management and schemes of arrangement as pre liquidation work. We were working to get the refinement done with the introduction of things like provisions for super priority financing, cramdown, extending schemes to listed entities and so forth. But parliament is not yet in session and so further amendments to make the pre winding up mechanism a bit more effective have not yet gone through.

Elsewhere, the government is under fiscal constraints because tax revenues are plummeting and they have been incurring additional costs to stabilise the economy – and there are vaccination-related costs.

As a consequence of all this, the government's ability to manoeuvre and provide more handouts during the current lockdown is very limited compared to the first lockdown we had just over a year ago. From December last year, there were 3,300 compulsory winding ups compared to 5,700 in 2019. Basically, it was kept artificially lower, but we see the insolvency rate spiking in the coming period.

JD – Spain: During summer, the government will be preparing measures that would consist of inducing companies to restore their activities rather than continuing to rely on aid. There are a number of companies that are comfortably sitting on the easy money, some for good reasons and others for less good reasons. Consequently, the government is progressively instilling the idea that at some stage it's going to stop and they'll have to face the consequences.

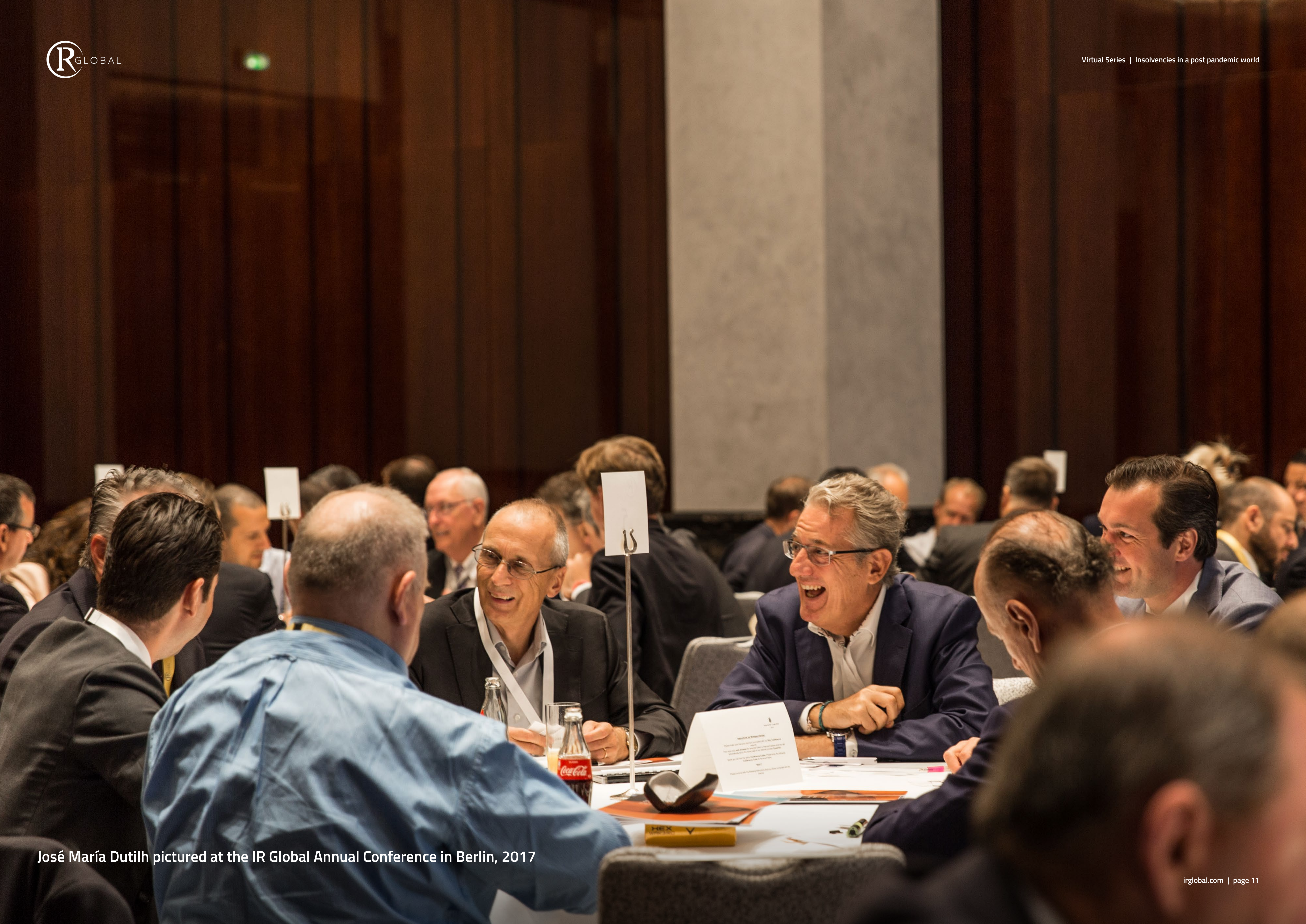
With businesses that have relied on state guaranteed loans to help them survive – although they were not meant to survive – there is going to be an increase in insolvencies among these. They'll wake up to the realisation that big state loans will have to be repaid and that's going to a hurt a lot of people running businesses that were struggling before the pandemic.

The capacity for companies to adapt will therefore be an important factor.

The main measures adopted in Spain since the beginning of the pandemic, aimed at companies, include:

- First guarantee lines by the Official Credit Institute (ICO) to guarantee 70%/80% of loans granted by Banks (€100,000 M).
- Second guarantee lines by the ICO to guarantee 70%/80% of loans granted by the Banks (€40,000 M).
- Extraordinary coverage line by the Spanish Export Credit Agency (CESCE) for export credits.
- Line of direct aid for the self-employed and companies (€7 billion).
- Measures to support and flexibilise loans with public guarantees (€3 billion).
- Recapitalisation fund for companies affected by COVID-19 (€1,000M)
- Recapitalisation fund for "strategic" companies (€100,000,M)
- Temporary collective labour suspensions (ERTEs) due to force majeure (closure) and exemption from Social Security contributions during the ERTE.
- Extension of ERTE due to force majeure (reduction of activity) and exemption from Social Security contributions during ERTE
- Rebates on social security contributions for workers with permanent seasonal contracts.

The aid packages offered by the government represent a relief and rescue measure, but not for all companies. They offer some help for very specific situations.



José María Dutilh pictured at the IR Global Annual Conference in Berlin, 2017

SESSION THREE

Will the huge numbers of predicted insolvencies and restructurings point to a spike in M&A and buyout activity, particularly across borders? And how are IR Global advisors assisting clients during this period of uncertainty?

DF – England: We've got the situation where at the start of last year there was very low business optimism and no M&A activity at all. Then we received this government support and it's looking a lot more positive – and the market is certainly beginning to turn. It's likely that we will now see more M&A work activity, particularly fuelled by semi distressed businesses and also private equity companies that have money they want to spend. We're also seeing in the UK some Asian investments in London, particularly from the Hong Kong British coming in and wanting to put their money into London.

So why is that? Because of the political situation in Hong Kong. Hong Kong investment has been keeping property prices as high as they have been for some time. As a result of all this new optimism, opportunities will abound for companies which are in the right place to capitalise on them. And key for any company will be the question: does that acquisition fit into our business strategy? Having a good understanding of the commercial aspects of the business target is going to be increasingly important to the UK.

How do you think you as an adviser can help clients within this period of uncertainty? What we're trying to do is always place ourselves as the trusted business advisor. That's especially important over all of the potential needs and issues, knowing where help is, how certain issues have been affected. Litigation is an obvious one; also helping them with their priorities over acquisitions; trying to integrate advice on tax, business risk and the like; and then advising them about new trends occurring from new ways of understanding property rentals to investing in clean energy. Finally, being a friendly sceptic, which is what lawyers are quite good at doing!

RJ – France: It was predicted that a tsunami of insolvency proceedings would happen at the start of 2021. As often things have been different thanks to government support. It is now predicted for the end of 2021 and beginning of 2022, but no one knows what will really happen. Many predictions have been made but one should not consider that we are at the end of it.

We will see how it goes in the autumn with the pandemic. Hopefully, the vaccination roll-out and measures of the various governments will help to finally resolve all this. But we are not there yet. What we can realistically anticipate with regard to France is that there will be a lot of business failures, with an increase of insolvency proceedings by the end of this year. State aid will come to an end and companies' cash flow problems will become more difficult.

That will in turn trigger an increase in M&A activities, and also of companies that are emerging from this period relatively successfully.

So, what are we doing as advisors? We need to be seen to be trusted advisers. We have made an alliance with finance consultants to be able to assist clients – not just on the legal aspects but also on financial and accounting issues. We put in place a fiduciary activity, the so-called French FIDUCIE which is the equivalent of a trust that enables businesses to structure schemes by isolating assets in a fiduciary entity for restructuring and protecting them from creditors and for putting in place innovative financial schemes.

As a whole, we are working on being able to assist (i) on legal and financial aspects of transactions on a tailor made basis, and (ii) resolving financial difficulties in a constructive and innovative way.

FR – Mexico: There are not a huge number of insolvencies in Mexico, but insolvencies outside Mexico are predicted to spike. Consequently, there may be a lot of M&As and buy outs of Mexican subsidiaries of bankrupt companies in the US or Canada, in particular. And that has been the case with some of our clients. We have been cooperating with Canada and the US to coordinate cross-border insolvency proceedings of American and Canadian businesses that have assets or are holders of Mexican subsidiaries.

And how are we as an IR global adviser assisting our clients during this period? We are honest. Always. We assess the client to seek the available options to avoid filing for bankruptcies. That means, like outside bankruptcy, work out or take advantage of the Mexican banks' forbearances and delay. Make it clear that filing for bankruptcy in Mexico must be the last resort.

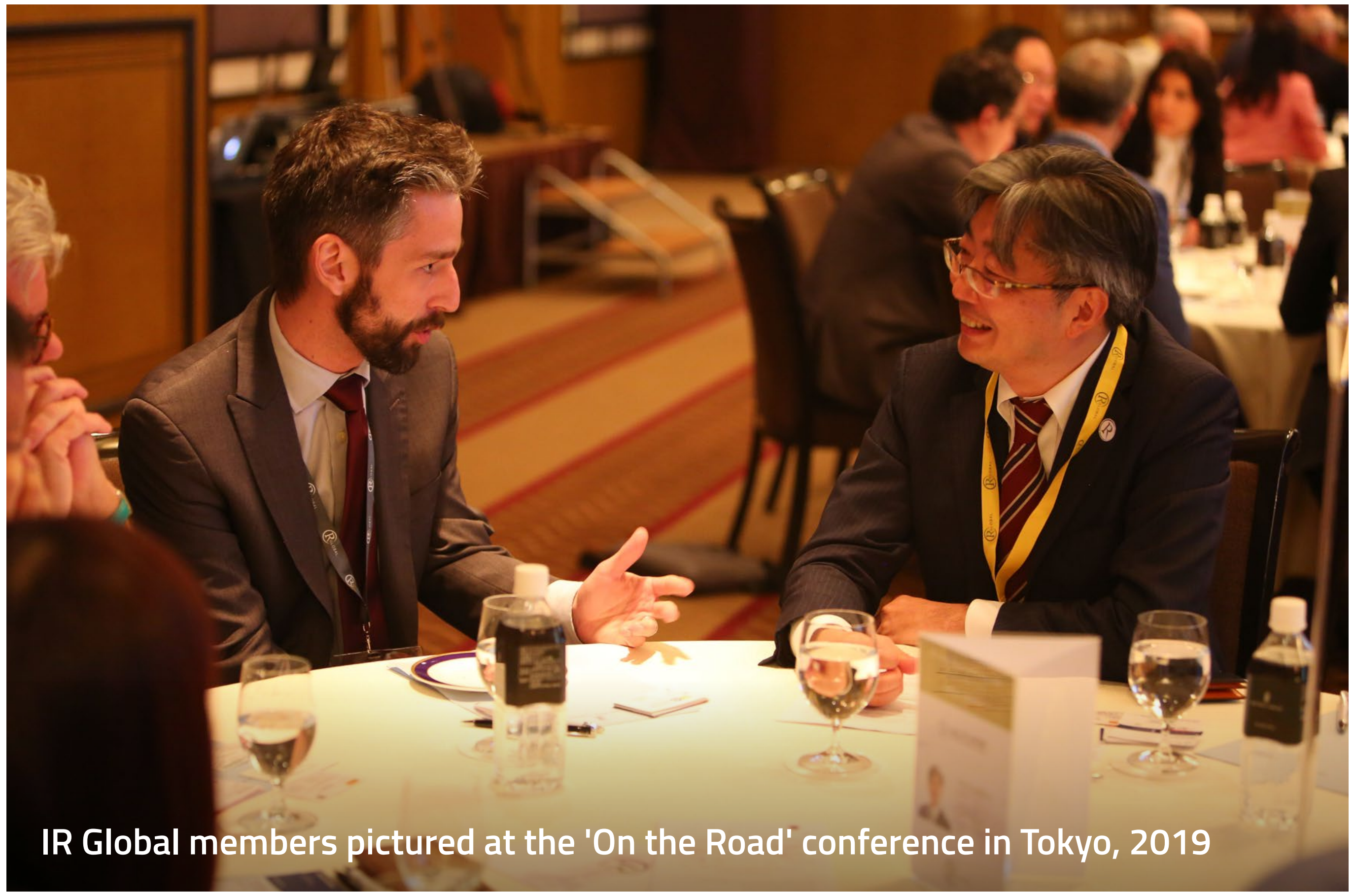
If you compare Mexico, for instance, with Brazil, Brazil has an average of 1,000 cases per year and even lower while smaller economies such as Chile have far more bankruptcies than Mexico. That is why Mexico is a unique case. Being a very big economy, we are simply not used to filing for bankruptcy. It's actually a unique case across the world.

GH – Hong Kong: Like Richard, I doubt there is going to be a huge number of insolvencies. They will certainly be increased compared to the previous couple of years. But either way, I think there will be an increase in M&A activity. One of the interesting aspects of M&A is the due diligence side.

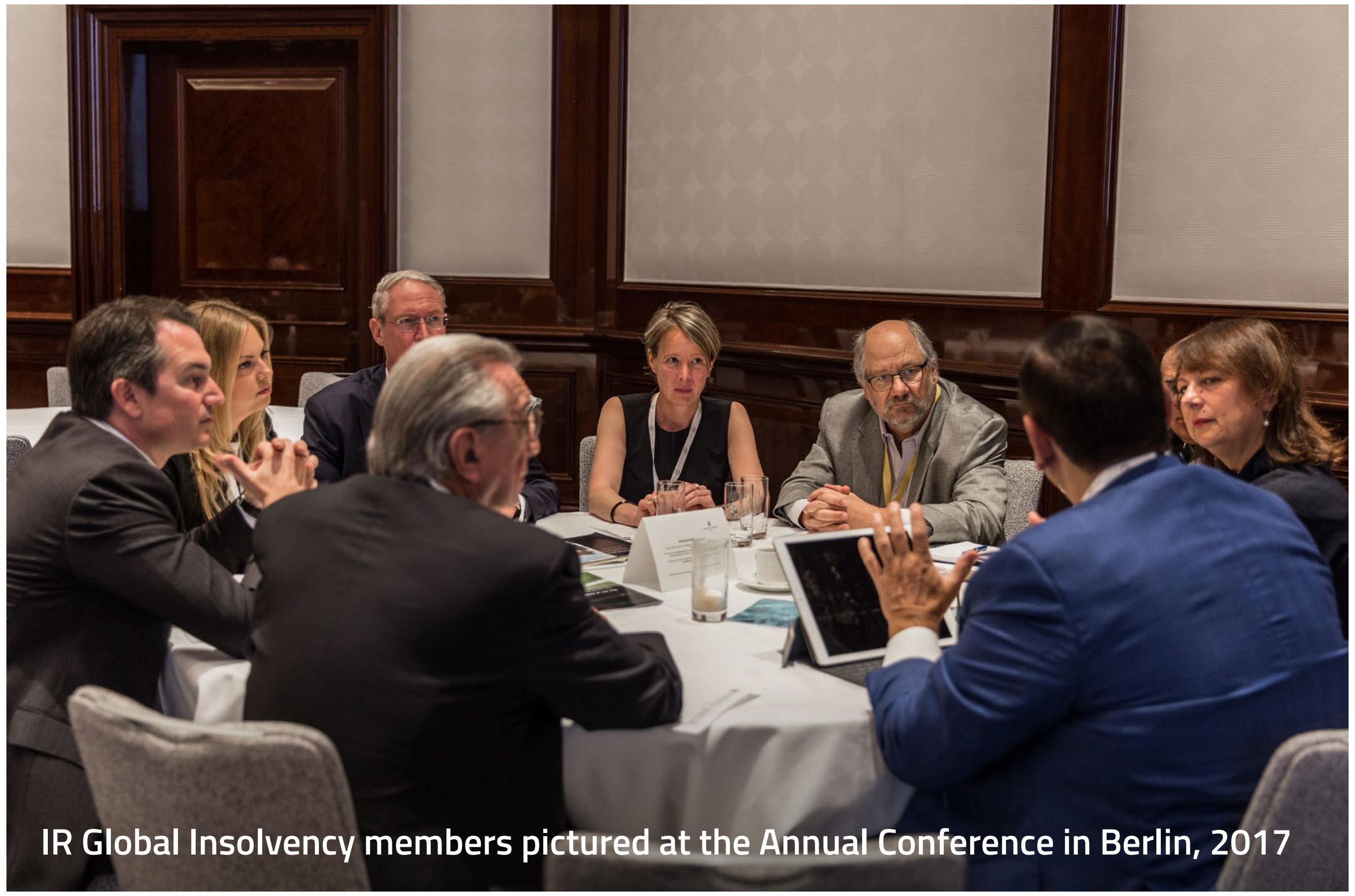
We were talking earlier about what government is doing to help businesses with Covid-19; in Hong Kong investments in the vaccination process itself was a major aspect – they've very quickly secured enough doses for everybody. The government has a very good, efficient mechanism for delivering it.

That now links with the M&A process and ensuring there's a roll out of wider vaccine adoption that will help businesses and investments in the context of the environment where, currently, without widespread vaccination, people are not easily able to travel. Looking at the risk analysis of that investment and what could go wrong and how you stress test that investment becomes even more important than it used to be given those travel constraints.

One of the things that we are able to do in this part of the world, particularly in assisting a European company that's about to get into an M&A deal, is that we are boots on the ground.



IR Global members pictured at the 'On the Road' conference in Tokyo, 2019



IR Global Insolvency members pictured at the Annual Conference in Berlin, 2017

We can do that analysis for them and give them some comfort. In the past they may have flown out to executives from their own jurisdictions, but in the absence of being able to do that without massive complications we are an additional resource to help them go through the M&A process.

CL – Hong Kong: We can work for clients as a financial adviser, assisting them on the due diligence or maybe assisting them to find a potential investor and try to negotiate the deal.

Also, there are more special situation funds here in Asia and distressed investment funds that are looking for distressed investment opportunities. So, either a distressed company could be looking to sell their non-core business or assets or looking to us for restructuring or winding down the business or potential investors approaching us for distressed investment opportunities.

DK – Malaysia: We anticipate buy out opportunities of distressed assets. In addition, over the years many government-linked companies and public listed entities strayed into all kinds of businesses from their core business. This pandemic has basically forced them to restructure and increasingly divest non core businesses. So that will be an opportunity. And, of course, with the e-commerce businesses, companies will be seeking to acquire warehousing and transportation-related businesses. Companies are also beginning to look into the acquisition of NPLs on loan portfolios which have been lower because of all the measures that the government taken. The banks will start to offload NPLs.

We are working to facilitate the government to rehabilitate abandoned residential commercial properties. Working with companies on schemes of arrangements and corporate voluntary administration because there are so many viable companies but they face cash flow issues. As a result we are proposing haircuts, deferred payment schemes, maybe providing some security or equity participation along with moratorium's from legal actions. And finally, through the Insolvency Practitioners Association of Malaysia and the Malaysian Institute of Accountants, we have been advising relevant ministries on the amendments required to the various legislations to promote rescue mechanisms rather than liquidation.

These are things we are trying to do. Otherwise, if we don't revert to a rescue mechanism to save this viable companies facing short-term cash flow issues, then it's going to devastate the economy.

JD – Spain: The pandemic outbreak in March last year had an impact on global economic activity.

This increase in the value of mergers and acquisitions in a context of global crisis highlights the region's attractiveness for investors interested in large-scale operations. Examples of this include the transactions carried out by national companies, whose operations place Spain as the third country in terms of transaction value (2,127 million euros).

Experts believe that, as the vaccination process proceeds, the second half of 2021 is likely to offer a more stable environment for new M&A activity. However, the risks of possible new waves of contagion, international conflicts and unexpected economic crises are still present and have a direct influence on such activity.

Unlike the economy, which experts expect to take several years to reach pre-crisis levels, investment funds and banks foresee a 2021 of unbridled euphoria in Spain. So much so that they already have transactions on the table pending resolution for this year to a value of over €17,000 million.

One of the firm's most important premises is to act as quickly as possible, since a delay in finding a solution causes even greater problems for people and/or companies.

In order to help these individuals and companies as quickly as possible, LeQuid provides financing, debt refinancing, liquidation of assets and communal properties, as well as sale of assets and lease-purchase. It also includes recovery of non-performing loans for clients, recovery of unduly paid municipal capital gains tax and resolution of corporate conflicts or blockage, among others.

Depending on the type of client and his or her needs, it is also possible to restructure debts and unify or defer them. Another option is to arrange out-of-court refinancing, including agreements with creditors or the sale of assets. The Spanish legislation foresees a wide range of instruments to overcome these situations; pre-insolvency, scheme of arrangements, sale of business units, Creditors Agreements.

The above also applies to individuals (either shareholders or administrators) who have granted personal guarantees to cover company obligations (Extrajudicial Payments Agreements and Voluntary individual bankruptcy procedures aimed to either defer payments, and or reduce payments and exoneration of outstanding debts).

At LeQuid, we believe in second chances.

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Day of Reckoning: Insolvencies in a post pandemic world

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